

RESOLUTION NO. R 2020-\_\_\_\_\_

A RESOLUTION BY THE CITY COUNCIL OF AURORA, COLORADO,  
TO OPEN AN INDEPENDENT INVESTIGATION INTO THE DEATH OF  
ELIJAH MCCLAIN

WHEREAS, the City Council desires to authorize an independent review of the actions of the Aurora Police Department and Aurora Fire Rescue on August 24, 2019, involving Elijah McClain, who died three days later following the incident; and

WHEREAS, Mr. McClain's death garnered significant local community concern when it happened, with many local citizens expressing anger about the incident and Mr. McClain's death at City Council meetings between September 2019 and into February 2020; and

WHEREAS, since Mr. McClain's death, there has been a criminal review of the matter by the 17<sup>th</sup> Judicial District Attorney's Office and an administrative review of the incident by both APD and AFR, all of which determined the actions by APD and AFR were lawful and within policy; and

WHEREAS, the City Manager previously hired an outside investigator in February 2020 to conduct an independent review of the incident and whose review was slowed down due to the COVID crisis; and

WHEREAS, as protest, unrest and calls for systematic change in policing increased following the in-custody death of George Floyd as the hands of police, the tragic death of Mr. McClain became international news with thousands of concerned citizens nation-wide and world-wide calling for an independent investigation; and

WHEREAS, City Council expressed concern that the selected outside investigator, who is an attorney with a prior career in law enforcement, did not meet the standard of neutrality that the City and community seeks, and, in response, the City Manager terminated his contract; and

WHEREAS, City Council believes a neutral third-party independent investigation conducted for the City is needed to discern the facts about what transpired that night of August 24, 2019; and

WHEREAS, City Council acknowledges the Governor's charge to the Colorado Attorney General to conduct a criminal investigation into this matter; and

WHEREAS, City Council acknowledges the Federal Bureau of Investigation's civil rights investigation into this matter; and

WHEREAS, City Council acknowledges that McClain family attorney has indicated that she is going to open an investigation into this matter; and

WHEREAS, the City's independent investigation will not interfere with the other investigations being conducted, and the City is committed to cooperation on this important matter; and

WHEREAS, City Council believes time is of the essence and that the City Manager must move forward in an expeditious manner with regard to the independent investigation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. The City Council hereby directs the City Manager to engage independent consultants to conduct a comprehensive and thorough investigation into the incident with Elijah McClain that occurred on August 24, 2019, and his subsequent death. This investigation must include a creation of a timeline; a review of all facts from the start to the end of APD's and AFR's contact with Mr. McClain; a review of relevant policies, procedures and practices including, without limitation, those related to calls for service, police contact with individuals, use of force, calls for medical assistance, ketamine use, and administrative incident reviews. The role of the City Manager in the investigation shall be limited to the procurement of the consultants and the administration of the contract(s), such as approval of invoices, and the provision of materials needed by the investigation team, such as audio and video records, files, and policies. No City official or employee will have control of the substance of the investigation or final report.

Section 2. The independent investigation team will be made up of at least three consultants who have expertise in independent critical incident investigations, law enforcement and public safety accountability, civil rights, police and EMT training and procedures, use of force, and/or criminal justice. The team will be led by Jonathan Smith of the Washington Lawyers Committee for Civil Rights and Urban Affairs, Washington D.C. In the event a consultant is not able to fulfill their duties, the City Manager may replace the consultant with another person with the requisite qualifications and shall inform City Council of such change.

Section 3. The independent investigation team is to commence its work immediately and shall complete its investigation as expeditiously as possible. Upon completion of its investigation, the investigation team shall submit a written report to City Council and the team, or Mr. Smith as lead, will present the findings of the investigation to the City Council in a public meeting. The report itself will be made public. The report should include recommendations for the City to address the situation that occurred, and recommendations based on best practices that should be employed by the City in the future. The written report should segregate any information required by law to be confidential from the main body of the report.

Section 4. All resolutions or parts of resolutions of the City in conflict herewith are hereby rescinded.

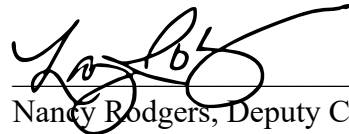
RESOLVED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
MIKE COFFMAN, Mayor

ATTEST:

\_\_\_\_\_  
STEPHEN RUGER, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Nancy Rodgers, Deputy City Attorney